

**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 17, 2007
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Council Member Woodard read the Bill of Rights Day Resolution that was presented to Joan Walsh and members of the Bill of Rights Committee.

Mayor Bell read a proclamation designating December 17, 2007 as Ham Day presented to Mundi Bemis.

City Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Woodard: Royal Ice Cream 7 and committee members. He announced the North Carolina State Marker Commission today voted to erect a state marker for the 1957 Royal Ice Cream Sit-in.

Council Member Woodard: Southwest Central Durham Quality of Life Committee, Joint Concert: Duke String School and Durham Children's Choir--Robert Ward, *The Lamb*; Parks & Recreation Department--Annual Senior Holiday Party; North Carolinians Against Gun Violence--4th Annual Peace Toy Exchange; 15th Anniversary of El Centro Hispano and thanked neighborhoods for changing their plans to celebrate the Holiday season with lights.

Mayor Pro Tempore Cole-McFadden: Kitchen Table Conversation at Pearsontown Elementary School; Christmas Party for Seniors at the Senior Center for Life; Training and Placement Graduation at NCCU; Crest Street Community Council Annual Dinner; and the Senior Party hosted by Parks & Recreation; Youth Basketball Game between Maureen Joy Charter School and Carver Community School; Peace Toys for War; Emorywood Neighborhood Holiday Celebration; El Centro Hispano 15th Anniversary; and Durham Raiders Awards Banquet at NCCU.

Mayor Pro Tempore Cole-McFadden presented Mayor Bell with an award from El Centro Hispano.

December 17, 2007

Council Member Clement: Senior Citizens Party; Campus Hills Community Holiday Party-- Harold Chestnut, Chair of PAC 4.

Mayor Bell thanked Council Members for participating in various functions throughout the City.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Baker requested that Agenda Items 13, 26 through 35 be referred back to the administration.

MOTION by Council Member Woodard seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

City Manager Baker gave an update on the water supply highlighting the following: drought status, 36% reduction in demand; lake levels; Teer Quarry would be on line in 10 days; water supply; purchase of water from OWASA; Cary interconnection; Jordan Lake Allocation; 2nd interconnection with Cary; staff meeting in January to discuss moving to Stage 5 if necessary; and announced Tier grades and changes in the water rate will be discussed on Thursday at the Work Session.

Council held discussion on the days remaining of primary water source; negotiation with Cary regarding expanding the City's use of Jordan Lake allocation; and interconnection with Cary.

Council Member Catotti made comments on events she participated in during the holiday. She made comments on the issue of conservation and shared five conservation tips.

Council Member Brown made comments on the issue of water rates. He stated he has discussed this issue with experts who have said the City needs to increase capacity, conservation efforts and water rates. He asked the City Manager to place a water rate increase proposal on Thursday's Work Session agenda.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 12, 14, 43 and 43 were pulled.

MOTION by Council Member Woodard seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: TECHNICAL CORRECTION TO THE CVS PHARMACY VOLUNTARY ANNEXATION PETITION ORDINANCE

December 17, 2007

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt a technical correction to the annexation ordinance for the CVS Pharmacy, changing it from contiguous to non-contiguous was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13518

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Woodard seconded by Council Member Catotti to approve City Council minutes for the November 5, 2007 City Council Meeting; and

To approve City Council action taken at the October 18, 2007 City Council Work Session was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM HOUSING AUTHORITY - APPOINTMENT

MOTION by Council Member Woodard seconded by Council Member Catotti to appoint Barbara Fletcher Loftin to the Durham Housing Authority with the term to expire on September 28, 2012 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY ENVIRONMENTAL AFFAIRS BOARD - APPOINTMENT

MOTION by Council Member Woodard seconded by Council Member Catotti to appoint John Manuel to the Durham City-County Environmental Affairs Board to represent Solid Waste with the term to expire on June 1, 2009 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: SOLE SOURCE PURCHASE - TASERS® - LAWMEN'S SAFETY SUPPLY INC.

MOTION by Council Member Woodard seconded by Council Member Catotti to approve the purchase of TASERS® without competitive bidding as authorized by G.S. 143-129 (e) (6) on the grounds that the product is available from only one source of supply;

December 17, 2007

To authorize the City Manager to enter into a contract with Lawmen's Safety Supply Inc., in the amount of \$158,533.00 for providing the City with 110 TASER® X26 devices and accessories; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: SOLE SOURCE PURCHASE – FASTER FLEET MANAGEMENT SOFTWARE - CCG SYSTEMS INC.

MOTION by Council Member Woodard seconded by Council Member Catotti to approve the purchase of FASTER Fleet Management software without competitive bidding as authorized by G.S. 143-129 (e) (6), on the grounds that the product is available from only one source of supply;

To authorize the City Manager to enter into a contract with CCG Systems Inc., in the amount of \$40,300.00 for providing the City with FASTER Fleet Management software; and

To authorize the City Manager to modify the contracts before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – THREE AUTOMATED ARM REFUSE COLLECTION VEHICLES - AMICK EQUIPMENT COMPANY, INC.

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Amick Equipment Company, Inc., in the amount of \$652,449.00, for providing the City with three Automated Arm Refuse Collection Vehicles; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PIGGYBACK PURCHASE – ONE (1) FIRE AND RESCUE PUMPER FOR FIRE STATION 15 - SUTPHEN CORPORATION

December 17, 2007

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to enter into a contract with the Sutphen Corporation, in the amount of \$302,327.24, for providing the City with one (1) Fire and Rescue Pumper; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PROPOSED LEASE AGREEMENT WITH QUALEX INC. FOR SWING OFFICE SPACE IN CONJUNCTION WITH THE CITY HALL RENOVATION PROJECT

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a Sublease Agreement with Qualex, Inc. for office space at 3404 N. Duke Street; and

To authorize the City Manager to make changes to the Sub-lease provided such changes do not materially affect the intent and purpose of the lease and agenda memo was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: INTERLOCAL AGREEMENT CITY-COUNTY APPEARANCE COMMISSION

MOTION by Council Member Woodard seconded by Council Member Catotti to approve the revision to the City-County Appearance Commission Interlocal Agreement was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONTRACT FOR USE OF THE CITY OF DURHAM 2007 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT BY THE DISTRICT ATTORNEY AND THE ADMINISTRATIVE OFFICE OF THE COURTS

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract between the City of Durham, David J. Saacks, District Attorney for the Fourteenth Prosecutorial District and the Administrative Office of the Courts under which the Administrative Office of the Courts will expend City funds to continue to support one full time Assistant District Attorney position to act as prosecutor for the Gang and Habitual Felon Task Force in the amount of \$60,000.00; and

December 17, 2007

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HYBRID BUS CAPITAL GRANTS - FEDERAL TRANSIT
ADMINISTRATION AND THE NORTH CAROLINA DEPARTMENT OF
TRANSPORTATION**

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to accept and execute capital grants from the Federal Transit Administration and the North Carolina Department of Transportation for the purpose of purchasing five (5) hybrid buses at a total project cost equaling \$2,550,000.00; and

To adopt the FY 2007-08 Section 5307 Bus Grant and Authorization to Execute Grant Agreements was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13522

SUBJECT: SAFE ROUTES TO SCHOOL DEMONSTRATION PROJECT FUNDING

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt a resolution expressing support for an application for Safe Routes to School Demonstration Funding and willingness to administer the funds if selected was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9518

**SUBJECT: REVISED MUNICIPAL AGREEMENT FOR AMERICAN TOBACCO
TRAIL PHASE E – I-40 PEDESTRIAN BRIDGE PROJECT EL-2921 E**

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to execute a Municipal Agreement with the North Carolina Department of Transportation for Phase E of the American Tobacco Trail (EL-2921 E) was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9519

December 17, 2007

SUBJECT: REPEALING ARTICLE IV, WATER AND SEWER SYSTEMS, OF THE CODE OF ORDINANCES AND ADOPTING REVISED IV, WATER AND SEWER SYSTEMS

MOTION by Council Member Woodard seconded by Council Member Catotti to adopt the revisions to Article IV, Water and Sewer Systems of the City Code amending the Sewer Use Ordinance to meet Federal and State requirements, effective January 1, 2008 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13523

SUBJECT: AMENDMENT TO SANITARY LANDFILL GROUNDWATER MONITORING SERVICES CONTRACT - S&ME, INC.

MOTION by Council Member Woodard seconded by Council Member Catotti to authorize the City Manager to execute a contract amendment with S&ME, Inc. for environmental monitoring services to be performed at North Durham Water Reclamation Facility which will increase the contract amount by \$19,100.00;

To authorize the City Manager to establish a contingency amount of \$1,910.00 for the amendment; and

To authorize the City Manager to modify the contract before execution provided the modifications do not increase the dollar amount of the contract and are consistent with the general intent of the version of the contract was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT

MOTION by Council Member Woodard seconded by Council Member Catotti to appoint Joy Suzanne Johnson to the Human Relations Commission with the term to expire on June 30, 2010 was approved at 7:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the December 6, 2007 Work Session:

9. Non-City Agency Program Review Committee Report

December 17, 2007

To receive a report from the Non-City Agency Program Review Committee.

Note: This item was deferred to the December 20, 2007 Work Session.

10. Bill of Rights Day Resolution

To adopt the Bill of Rights Day Resolution.

Note: (This item was approved at the 12-06-07 Work Session with a vote of 7/0.

Resolution #9517

14. Proposed Sale of 727 N. Mangum Street, Parcel ID# 104905 (City Tract #1981)

To declare City Tract # 1981 at 727 N. Mangum Street, Parcel 104905, as surplus property;

To propose to accept the offer of \$30,000.00 from UDI Community Development Corporation to purchase City Tract # 1981;

To authorize the sale of the property via the Upset Bid Procedure (G.S. 160A-269); and

If no upset bids are received, accept UDI Community Development Corporation's offer; to authorize the City Manager to sell and the Mayor to convey the property with a non-warranty deed.

Note: This item was referred back to the Administration – General Services Dept.

17. Proposed Lease Agreement between the City of Durham and Edgemont Realty, LLC at Golden Belt - 807 E. Main Street

To authorize the City Manager to execute the lease agreement, City as Tenant, with Edgemont Realty, LLC, for office space at 807 E. Main Street (Golden Belt); and

To authorize the City Manager to make changes to the lease prior to execution provided the changes do not change the intent of the agenda memo or increase the rental rate payable to the landlord.

Note: This item was approved at the 12-06-07 Work Session with a vote of 7/0.

41. Howard Hill

To receive comments from Howard Hill regarding street closure.

December 17, 2007

Note: Citizen did not appear at the 12-06-07 Work Session.

42. Lillian Lennon

To receive comments from Lillian Lennon regarding the small business loan program.

Note: Citizen did not appear at the 12-06-07 Work Session per Citizen's request.

49. Ratify Contract Award – Teer Quarry 42" Raw Water Tap

To ratify the contract authorized by the City Manager with Park Construction Corporation in the amount of \$113,000.13 for the construction of a 42" waterline connection at the Teer Quarry site; and

To authorize the City Manager to execute the contract documents for this project; and

To establish a contingency for this project in the amount of \$22,000; and

To authorize the City Manager to negotiate change orders for this project provided the total cost of the project does not exceed \$135,000.13.

Note: This item was approved at the 12-06-07 Work Session with a vote of 7/0.

[GENERAL BUSINESS AGENDA]

SUBJECT: ROLLING HILLS/SOUTHSIDE REDEVELOPMENT PROJECT

To accept the recommendation of the RFQ panel to select McCormack Baron Salazar, Inc. and Struever Bros. Eccles & Rouse as the development team for the Rolling Hills site;

To receive a presentation from McCormack Baron Salazar, its non-profit affiliate, Urban Strategies, Inc., and other members of the development team;

To authorize the expenditure of \$325,000.00 in housing bond program income for planning, engineering, surveying and related services associated with the Rolling Hills/Southside Redevelopment Project subject to the submission by McCormack Baron Salazar, Inc. and SBER Development Holdings, LLC of satisfactory commitments for matching funds from other sources of an equal or greater amount;

To authorize the City Manager to execute a Predevelopment Agreement between the City of Durham and McCormack Baron Salazar, Inc. and SBER Development Holdings, LLC;

December 17, 2007

To authorize the City Manager to modify the Predevelopment Agreement before execution, provided that the modifications do not increase the dollar amount of the Predevelopment Agreement and do not lessen the obligations of McCormack Baron Salazar, Inc. and SBER Development Holdings, LLC;

To authorize the expenditure of \$2,700,000.00 in housing bond program income to begin the acquisition of privately owned residential properties within the Rolling Hills development and the relocation of affected homeowners and tenants and to authorize the expenditure of future housing bond program income and any institutional or philanthropic contributions for the completion of the acquisition and relocation efforts within the Rolling Hills development, but not exceeding a total sum of \$6,000,000.00; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of decreasing the appropriation Reserve for Pending Projects and increasing the total appropriation for Rolling Hills by \$3,000,000.00.

City Manager Baker reported responses to questions raised at the Work Session were made available to Council last Thursday.

Larry Hester responded to remarks made in The Herald-Sun by Council Member Brown. He expressed concerns regarding the following: redevelopment, i.e., demolition of Rolling Hills; the lack of information regarding impacts on this surrounding community--including the redevelopment plan required by law, zoning changes, transportation impacts, and public involvement of land owners, possible move of residents from the McDougald Terrace community; downtown not maximizing its use of the DDO1 - DD02 zonings, lack of contact from the developer or the City regarding their plans, streetscape design is behind schedule with no firm budget commitment, affordability of housing planned for Rolling Hills and the staff's report concerning the characterization of SDDC.

Council Member Brown explained his quote that was in printed in The Herald-Sun and commented on the 60-page report compiled after the failure of Rolling Hills.

Elaine Armstrong, of 67 Enesco Circle, stated she has been a resident of Rolling Hills for 20 years and commented on Rolling Hills being a failed project. She urged Council to not prolong the limbo that the residents are in because they need a definitive sign that plans will go forward with the funding required to make some changes to renew and develop Rolling Hills.

Victoria Peterson asked staff to provide information on the acquisition process for residents of Rolling Hills. She asked staff to put something in place on this project to ensure that local legal men and African American males are going to be employed and urged Council to encourage the Struever Bros. to hire local contractors and sub-contractors.

E. Joyce Grant, of 6 Cypress Court--President of Rolling Hills Homeowners Association, stated they welcome the authorization to spend Housing Bond funds to begin the acquisition of privately-owned residential properties within the Rolling Hills Development and the relocation of

December 17, 2007

affected homeowners and tenants.

E. Lavonia Allison, representing the Durham Committee on the Affairs of Black People, encouraged Council to move forward with this item, requested that there be participation from the Durham Committee on the Affairs of Black People on the Steering Committee and asked that persons selected on the Steering Committee have some historic significance to this area.

A motion was made by Mayor Pro tempore Cole-McFadden seconded by Council Member Clement to approve the item as printed.

Council Member Woodard asked several questions concerning the following topics that were answered by staff: purpose of this item, Master Development Agreement, staff memo, the sixth and seven motions on the agenda, community input, and relocation.

Associate Director Larry Jarvis discussed the purpose of this item. He stated there is no money involved in construction activities, reported \$325,000 is for planning and design and authorization to spend the available \$2.7 million in housing bond program income to begin the acquisition and relocation within Rolling Hills. He noted the Master Development Agreement will be one of the end products of the Pre-development Agreement.

For clarification, Deputy City Manager Wanda Page stated the capitol project ordinance is for \$2.7 million. In order to get the additional funding available to be spent for relocation, another Capitol Project Ordinance for the remainder would have to come before Council.

Council Member Woodard asked the administration if \$2.7 million could be spent on acquiring the land and relocating residents and not having to come back before the City Council.

Deputy City Manager Page replied yes.

Associate Director Larry Jarvis reported the \$6 million housing bond project income to build this project would come back to the City from the 1996 housing bond proceeds that have been loaned through homeownership program, loaned through developers, Eastway Village project, and two short-term construction loans.

Council Member Woodard asked staff several questions regarding the following topics that were answered by staff: Eastway Village, housing bond income, planning process, fund balance, Rolling Hills--ownership of parcels, demolition cost, homeownership dues; and CAC's involvement with this project.

E. Joyce Grant, President of Rolling Hills Homeowners Association, discussed the level of service residents received from their homeownership dues.

Council Member Clement spoke in support of this item requesting that the Steering Committee be a part of the entire process.

December 17, 2007

Council Member Brown asked staff why the gap of \$2.7 to \$6 million for this project.

Associate Director Larry Jarvis stated all staff has now in the fund balance that can be used to begin the acquisition and relocation is \$2.7 million and the \$6 million represents the total cost of the acquisition and relocation that we will have to complete over the next two or so years as we recognize and receive the additional bond program income. He gave a breakdown of cost: \$3.7 acquisition, \$1.2 relocation, soft costs and contingency.

Council Member Brown raised a concern that one individual owns 11 properties.

Associate Director Larry Jarvis reported the offer that will be made to owners of multiple properties--owners of investor properties-- will be based on an independent appraisal of the market value.

Council Member Brown asked staff questions concerning the amount of money being spent on the Rolling Hills project and percentage of low-income housing that will be built.

Council Member Catotti asked staff to provide information on the funding source for the \$6 million in writing. She made comments on including citizens on the Steering Committee. She raised a concern with committing \$6 million in past and future bond money and that there is a need for an additional commitment of housing money to continue revitalization of other target neighborhoods that the City is already committed to, i.e., North East Central Durham, South West Central Durham, other neighborhoods around Rolling Hills and Southside. She stated she recognizes the need for this project, but urged her colleagues to support additional funding this coming year. She stated she would like to see a higher percentage of affordable housing, definition of affordable housing--higher and lower and making affordable housing permanent.

Council Member Ali made comments urging staff to ensure the Steering Committee is a working committee and that information that is being presented to Council is clear and presented upfront. He asked staff what would be the total amount of project upon completion.

Associate Director Larry Jarvis replied \$75 to \$100 million.

Council Member Ali asked questions regarding the following topics that were answered by staff: value of land based on tax value, and acquisition of property. He made comments noting affordable housing should be made permanent and having an active Steering Committee.

Mayor Bell made comments in support of this item. The Mayor outlined why this item should move forward.

Mayor Pro Tempore Cole-McFadden spoke in support of this item.

Council Member Woodard stated he has questions regarding the percentage of permanent housing in both Rolling Hills and Southside neighborhoods and the lack of specificity in the absence of a Master Development Agreement.

December 17, 2007

A substitute motion was made by Council Member Woodard seconded by Council Member Brown to approve motions 1, 2 and 3 as printed, amend motion 4 to read: To authorize the City Manager to prepare a Predevelopment Agreement, etc. and defer motions 5, 6 and 7 for one cycle to address questions raised by Council.

Council Member Ali asked how long will the process take for planning, engineering and surveying and related services associated with this property.

Associate Director Larry Jarvis replied 12 to 14 months.

Council Member Ali asked the developer if the match fund of \$325,000 was in escrow to begin this process.

Stan Mulvihill, representing the developer replied no. He stated they will go to private sources to raise that on a contribution bases to match the public sector commitment of \$325,000 toward planning.

Council Member Ali asked the developer--the City will not spend any money until the developer raises their \$325,000.

Stan Mulvihill, representing the developer, replied yes and made comments on the threshold acknowledgement in the predevelopment agreement.

Council Member Ali asked questions that were answered by staff and developer on the following topics: schedule for acquisition, developer's timeframe for raising the \$325,000.

Mayor Bell stated he would be voting against the substitute motion.

SUBSTITUTE MOTION by Council Member Woodard seconded by Council Member Brown to approve motions 1, 2 and 3 as printed, amend motion 4 to read: To authorize the City Manager to prepare a Predevelopment Agreement, etc. and defer motions 5, 6 and 7 for one cycle to address questions raised by Council **FAILED** at 9:41 p.m. by the following vote: Ayes: Council Members Brown, Catotti and Woodard. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali and Clement. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to accept the recommendation of the RFQ panel to select McCormack Baron Salazar, Inc. and Struever Bros. Eccles & Rouse as the development team for the Rolling Hills site;

To receive a presentation from McCormack Baron Salazar, its non-profit affiliate, Urban Strategies, Inc., and other members of the development team;

To authorize the expenditure of \$325,000.00 in housing bond program income for planning, engineering, surveying and related services associated with the Rolling Hills/Southside Redevelopment Project subject to the submission by McCormack Baron Salazar, Inc. and SBER

December 17, 2007

Development Holdings, LLC of satisfactory commitments for matching funds from other sources of an equal or greater amount;

To authorize the City Manager to execute a Predevelopment Agreement between the City of Durham and McCormack Baron Salazar, Inc. and SBER Development Holdings, LLC;

To authorize the City Manager to modify the Predevelopment Agreement before execution, provided that the modifications do not increase the dollar amount of the Predevelopment Agreement and do not lessen the obligations of McCormack Baron Salazar, Inc. and SBER Development Holdings, LLC;

To authorize the expenditure of \$2,700,000.00 in housing bond program income to begin the acquisition of privately owned residential properties within the Rolling Hills development and the relocation of affected homeowners and tenants and to authorize the expenditure of future housing bond program income and any institutional or philanthropic contributions for the completion of the acquisition and relocation efforts within the Rolling Hills development, but not exceeding a total sum of \$6,000,000.00; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of decreasing the appropriation Reserve for Pending Projects and increasing the total appropriation for Rolling Hills by \$3,000,000.00 was approved at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Catotti, Clement and Woodard. Noes: Council Member Brown. Absent: None.

Ordinance #13524

SUBJECT: TWO-THIRDS BONDS REIMBURSEMENT RESOLUTION

To adopt a resolution declaring the intent of the City of Durham to reimburse itself for capital expenditures incurred in connection with various public improvements from the proceeds of certain tax-exempt obligations to be executed and delivered during fiscal year 2009; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2007-08, as amended, the same being Ordinance #13428 for the purpose of adding \$12,250,000.00 in Two-Thirds Bond Funds.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: TEAGUE-HANKINS MEDICAL FACILITY SITE

December 17, 2007

To direct the City Manager to negotiate an amendment to the annexation agreement with Raleigh that would cede the Teague-Hankins tract to Raleigh's jurisdiction subject to the conditions described in this report;

To authorize the City Manager to negotiate a temporary utility service agreement with Raleigh for the Durham service area in Wake County;

To authorize the City Manager to initiate the process to obtain the necessary approvals from the applicable governing boards to effectuate these agreements; and

That all final actions are contingent upon the issuance of a Certificate of Need for a facility in the service area of the Teague-Hankins tract by the NC Division of Health Service Regulation to Wake Med.

City Manager Baker made comments on this item noting the following motion was added to the agenda item: That all final actions are contingent upon the issuance of a Certificate of Need for a facility in the service area of the Teague-Hankins tract by the NC Division of Health Service Regulation to Wake Med.

Mayor Bell asked that the following language be added to the end of the last motion: and Final approval of the City Council.

MOTION by Council Member Clement seconded to Mayor Pro Tempore Cole-McFadden to direct the City Manager to negotiate an amendment to the Annexation Agreement with Raleigh that would cede the Teague-Hankins tract to Raleigh's jurisdiction subject to the conditions described in this report;

To authorize the City Manager to negotiate a temporary utility service agreement with Raleigh for the Durham service area in Wake County;

To authorize the City Manager to initiate the process to obtain the necessary approvals from the applicable governing boards to effectuate these agreements; and

That all final actions are contingent upon the issuance of a Certificate of Need for a facility in the service area of the Teague-Hankins tract by the NC Division of Health Service Regulation to Wake Med and final approval of the City Council was approved at 9:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH JORDAN AT SOUTHPOINTE, LLC

To authorize the City Manager to enter into a water and sewer extension agreement with Jordan at SouthPointe, LLC to serve Jordan at Southpoint Subdivision; and

December 17, 2007

To authorize the City Manager to sign the agreement with changes made to address utility availability and other miscellaneous modifications.

Council Member Catotti asked staff to address the issue of conservation subdivision and the issue of tapping on to the water supply.

Interim City/County Planning Director Steve Medlin commented on the revised preliminary plats submitted by developer and stated the applicant has addressed all the Planning Department's concerns related to protecting more of the secondary conservation areas in conjunction with the proposed text amendment. He reported when this item goes to the Development Review Board [DRB], the Planning staff will be making a recommendation for approval of this request.

City Attorney Blinder briefed Council on the language that was added to the water and sewer extension agreement in Paragraph 24 that would protect the City's interest.

Council held discussion on the testing procedure.

Attorney Kenneth Spaulding, representing the applicant, made comments on the meeting held with the City Attorney's Office, and the language that was added in the Water and Sewer Extension agreement concerning drought status. He made comments on the changes made by the developer concerning the conservation subdivision and urged Council to support this item that would represent responsible growth coupled with the responsible adaptation to the real efforts of climate change in how our government must respond in a smart and effective manner without creating an absolute moratorium on growth in the City of Durham.

George Brine, of 6505 Hunters Lane, stated there is not a sufficient supply to service present water customers and suggested that all applications for future water service be put on hold until Durham has acquired sufficient capacity to meet the increase demand.

Lavonia Allison expressed concern that we are still building in Durham when the water is evaporating before our faces. She urged Council to listen to some of the basic reasons that have been given.

Council Member Clement asked the developer will the implementation of this project take place in 2009.

Attorney Kenneth Spaulding, representing the applicant, replied yes.

Council Member Catotti asked staff what additional action does Council need to make for redefining drought.

City Attorney Henry Blinder stated Council would need to declare a water or sewerage shortage under a policy, resolution or ordinance that would restrict similar situated new developments and un-served properties in such new developments in a uniform manner.

Council Member Catotti raised a concern as to why we are not adding language that this item

December 17, 2007

will come back to Council in order to advise them that this item will or will not move forward.

Attorney Kenneth Spaulding made comments on this item.

Council held discussion on: pending water and sewer extension agreements.

Deputy City Manager Ted Voorhees made comments on regional water discussions that will take place in January.

Council Member Woodard asked the administration to provide language to Council on how to move forward so that Council can take action during the first cycle in February.

Mayor Bell stated all that is needed is a level that addresses Council will not permit any more water extensions.

Council Member Catotti made comments on adding a threshold.

Mayor Bell asked the administration to report back with a stage at which time the City will not allow any more water and sewer extensions and language concerning usage.

MOTION by Council Member Clement seconded by Council Member Woodard to authorize the City Manager to enter into a water and sewer extension agreement with Jordan at SouthPointe, LLC to serve Jordan at Southpoint Subdivision; and

To authorize the City Manager to sign the agreement with changes made to address utility availability and other miscellaneous modifications was approved at 10:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Clement and Woodard. Noes: Council Member Catotti. Absent: None.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

**SUBJECT: ECONOMIC DEVELOPMENT INCENTIVES PER GS 158-7.1 AND
APPROVAL OF FIVE MERCHANDISE BASED IMPROVEMENT
PROJECT CONTRACTS**

Michael Keeler, of the Office of Economic and Workforce Development, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Woodard to conduct a public hearing to receive comments on Economic Development Incentives per GS 158-7.1;

December 17, 2007

To authorize the City Manager to execute an economic incentives contract with Dollar & Cents, Inc. in the amount of \$3,031.50;

To authorize the City Manager to execute an economic incentives contract with Martinez Creation, Inc. in the amount of \$7,500.00;

To authorize the City Manager to execute an economic incentives contract with Catering by George in the amount of \$5,650.00;

To authorize the City Manager to execute an economic incentives contract with Samuel & Sons Barbershop, LLC in the amount of \$3,564.00;

To authorize the City Manager to execute an economic incentives contract with Welcome Back, Inc. in the amount of \$7,500.00, and

To authorize the City Manager to modify the contracts provided that the modifications do not increase the dollar amounts and the modifications are consistent with the general intent of the contracts was approved at 10:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: HISTORIC LANDMARK DESIGNATION – JOHNSON-ROGERS HOUSE
(LD07-08)**

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Johnson-Rogers House, 215 Monmouth Avenue (LD07-08) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

**SUBJECT: HISTORIC LANDMARK DESIGNATION – ROGERS DRUGS BUILDING
(LD07-10)**

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Rogers Drugs Building (LD07-10) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

December 17, 2007

SUBJECT: HISTORIC LANDMARK DESIGNATION – SIMPSON UMSTEAD HOUSE (LD07-02)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Simpson Umstead House, 807 Hermitage Court Drive (LD07-02) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: HISTORIC LANDMARK DESIGNATION – ORIGINAL WATTS HOSPITAL BUILDING (LD07-03)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Original Watts Hospital Building, 302 Watts Street (LD07-03) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: HISTORIC LANDMARK DESIGNATION – WEBB THOMPSON HOUSE (LD07-04)

To conduct a public hearing and receive public comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Webb Thompson House (LD07-04) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: HISTORIC LANDMARK DESIGNATION – PENNY FURNITURE BUILDING (LD07-05)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

December 17, 2007

To adopt an ordinance designating the Penny Furniture Building, 111 East Chapel Hill Street (LD07-05) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: HISTORIC LANDMARK DESIGNATION – DURHAM LAUNDRY BUILDING (LD07-06)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Durham Laundry Building, 209-211 North Church Street (LD07-06) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: HISTORIC LANDMARK DESIGNATION - L.D. ROGERS FURNITURE STORE BUILDING (LD07-09)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the L. D. Rogers Furniture Store Building (LD07-09) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: HISTORIC LANDMARK DESIGNATION – PASCHALL’S BAKERY AND STUDEBAKER BUILDING (LD07-01)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Paschall’s Bakery and Studebaker Building (LD07-01) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

December 17, 2007

SUBJECT: HISTORIC LANDMARK DESIGNATION – TEMPEST BUILDING (LD07-11)

To conduct a public hearing and receive comments on the proposed Historic Landmark designation; and

To adopt an ordinance designating the Tempest Building (LD07-11) as a Historic Landmark.

Note: By a vote of 7/0 the City Council referred this item back to the administration at the request of the City Manager.

SUBJECT: PLAN AMENDMENT – TREYBURN VILLAGE (A06-13) – TONY TATE, LANDSCAPE ARCHITECT – SOUTHEAST CORNER OF THE INTERSECTION OF SAWMILL CREEK PARKWAY AND VILLAGE HILL PARKWAY

To conduct a public hearing to receive public comments on the Treyburn Village (A06-13) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Commercial to Low Density Residential (4 DU/Ac. or Less)

Interim City/County Planning Director Steve Medlin briefed Council on the plan amendment. He stated staff certifies that all proper notification has been made in accordance with the general statute requirements.

Mayor Bell opened the public hearing.

Tony Tate, representing the applicant, spoke in support of this item.

There being no one to speak in opposition to this plan amendment, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Woodard to conduct a public hearing to receive public comments on the Treyburn Village (A06-13) Plan Amendment; and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Commercial to Low Density Residential (4 DU/Ac. or Less) was approved at 10:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9520

December 17, 2007

**SUBJECT: ZONING MAP CHANGE – TREYBURN VILLAGE (Z06-39) –
WANDERLUST LT, LLC – SOUTH SIDE OF VINTAGE HILL
PARKWAY, EAST OF SAWMILL CREEK PARKWAY**

To conduct a public hearing to receive public comments on the zoning map change for Treyburn Village (Z06-39);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-39 out of CN and CC; F/J-B and placing same in and establishing same as PDR 2.240; F/J-B; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials;

or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, should the plan amendment (A06-13) be adopted, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 13-0 on August 14, 2007. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the governing body approve the pending plan amendment the ordinance request would then be in compliance with the revised Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report, comments received during the public hearing and additional committed elements proffered by the applicant at the meeting.

[The site is located on the south side of Vintage Hill Parkway, east of Sawmill Creek Parkway. PIN: 0845-01-17-1163 (partial)]

Interim City/County Planning Director Steve Medlin briefed Council on the zoning map change highlighting the uses and noted the recent plan amendment recently adopted by Council is in compliance with the Comprehensive Plan. He briefed Council on the committed elements highlighting the following: transportation improvements: dedication of additional right of ways and roadway improvements on Sawmill Creek Parkway, total number of lots, maximum lot size, open space, provide an amenity area including play facility. He stated staff is recommending

December 17, 2007

approval of this request and the Planning Commission recommended approval. He stated notification has been carried out in accordance with the appropriate standards.

Mayor Bell opened the public hearing.

Proponent

Tony Tate, representing the applicant, spoke in support of this zoning map change. He made comments on the site and stated this plan is best suited for this site.

Opponent

Melissa Rooney, of 301 Spring Garden Drive, expressed concern with development practices regarding clear cutting, mass grading and water quality. She urged Council to think before allowing these rezonings and homes to be put in without stricter requirements in the UDO for our resources.

Interim City/County Planning Director Steve Medlin addressed concerns raised by Ms. Rooney and commented that the Planning Commission felt that this was a reasonable design based on the unique nature of this property and the efforts of the applicant to try to address those issues.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Brown to conduct a public hearing to receive public comments on the zoning map change for Treyburn Village (Z06-39);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z06-39 out of CN and CC; F/J-B and placing same in and establishing same as PDR 2.240; F/J-B; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 10:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13525

SUBJECT: NORTHEAST CREEK DEVELOPMENT INITIAL (Z07-12A) – CITY OF DURHAM – NORTHSIDE OF ELLIS ROAD, EAST OF SOUTHLAND DRIVE AND WEST OF NEW HAVEN DRIVE

December 17, 2007

To conduct a public hearing to receive public comments on the initial zoning map change for Northeast Creek Development Initial (Z07-12A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 4.840, IL(D), IP and RS-20 zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on annexation by the Council and the information contained in this report.

Planning Commission Recommendation: Approval, per the resolution adopted by the Commission on December 13, 2005 and attached to the staff report.

[The site is located on the north side of Ellis Road, east of Southland Drive and west of New Haven Drive. PIN 0749-01-37-5402, -47-0390]

Interim City/County Planning Director Steve Medlin stated proper notification has been carried out in accordance with the UDO and the general statute requirements. He briefed Council on the initial zoning. He stated staff and the Planning Commission both recommended approval of this request.

Mayor Bell opened the public hearing. There being no one to speak in support or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to conduct a public hearing to receive public comments on the initial zoning map change for Northeast Creek Development Initial (Z07-12A);

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, to establish PDR 4.840, IL(D), IP and RS-20 zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 10:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13526

December 17, 2007

**SUBJECT: STREET CLOSING - UNNAMED ALLEY OFF JACKSON STREET
BETWEEN PAULI MURRAY PLACE AND CARROLL STREET (SC07-
06) – SELF-HELP CDC -**

To conduct a public hearing to receive comments on the closing of a 147.25 linear foot unnamed alley off Jackson Street between Pauli Murray Place and Carroll Street; and

To adopt an Order permanently closing a 147.25 linear foot unnamed alley off Jackson Street between Pauli Murray Place and Carroll Street conditioned on the recordation of a recombination plat that demonstrates the approval of all property owners involved with the unequal distribution of the closed right-of-way.

Interim City/County Planning Director Steve Medlin stated proper notification has been carried out in accordance with general statutes and the UDO provisions. He briefed Council on the street closing stating this request has been reviewed by City departments and service providers and no issues or impacts have been identified. He stated staff recommended approval of this request.

Mayor Bell opened the public hearing.

Due to property owned on Jackson Street, Lavonia Allison asked for clarification on the location. After reviewing map, her property was not impacted.

Mayor Bell closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to conduct a public hearing to receive comments on the closing of a 147.25 linear foot unnamed alley off Jackson Street between Pauli Murray Place and Carroll Street; and

To adopt an Order permanently closing a 147.25 linear foot unnamed alley off Jackson Street between Pauli Murray Place and Carroll Street conditioned on the recordation of a recombination plat that demonstrates the approval of all property owners involved with the unequal distribution of the closed right-of-way was approved at 10:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13527

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT –
OPEN SPACE (TC07-04)**

To conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Open Space (TC07-04); and

December 17, 2007

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 7, Design Standards, and Article 8, Environmental Protection.

Julia Mullen, of the City/County Planning Department, stated proper notice was provided with evidence in the file for review and briefed Council on the text amendment. She stated staff is recommending approval and the Planning Commission recommended denial based on the issue of tree coverage on private lots.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Woodard to conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Change – Open Space (TC07-04); and

To adopt an Ordinance Amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, incorporating revisions to Article 7, Design Standards, and Article 8, Environmental Protection was approved at 10:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13528

SUBJECT: VOLUNTARY ANNEXATION PETITION RECEIVED BY JULY 31, 2007 - [FY2007-14 JORDAN AT SOUTHPOINT];

To receive citizens' comments concerning the annexation of the following Voluntary Annexation Area [FY2007-14 Jordan at Southpoint]; and

To adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2007-14 Jordan at Southpoint]; in accordance with N.C. General Statutes 160A-58 -- effective from and after December 31, 2007; and

To authorize the City Manager to enter into a half base contract with the Parkwood VFD.

Julie Brenman stated the public hearing on this item was continued from the December 3, 2007 City Council Meeting. She stated the analysis shows a positive cost benefit.

Mayor Bell opened the public hearing.

George Brine, of 6505 Hunters Lane, expressed concerns regarding the following issues: water supply, any development on this site would lead to further degradation of the Jordan Reservoir Watershed; inconsistency of the Green House Gas Plan adopted three months ago and the financial analysis--financial impact calculated for rezoning and there is no rezoning involved.

December 17, 2007

He urged Council to vote against this request.

Julie Brenman described why the analysis is correct; however, it was titled incorrectly.

Melissa Rooney, of 301 Spring Garden Drive, spoke against this item and asked that her comments made earlier in the meeting be applied to this item. She raised concerns with the water quality, tree save issue, and that this item is not preserving the rural character of Durham. She urged to vote against this item or defer it until amendments to the UDO [conservation subdivision sections] are passed.

Council Member Catotti responded to the amendments of the UDO--conservation subdivision section of the UDO. She reported the Joint City/County Planning Committee finished its work on the matter and now it is before staff for finalization.

Interim City/County Planning Director Steve Medlin reported this request was evaluated against the current provisions and the provisions of the proposed text amendment and it is staff's opinion that this project is in compliance.

Lavonia Allison stated some of the questions answered have addressed her concerns.

Attorney Kenneth Spaulding stated the developer addressed issues raised to staff's satisfaction.

Mayor Bell closed the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive citizens' comments concerning the annexation of the following Voluntary Annexation Area [FY2007-14 Jordan at Southpoint]; and

To adopt "An Ordinance Annexing to the City of Durham" of the Voluntary Annexation Area [FY2007-14 Jordan at Southpoint]; in accordance with N.C. General Statutes 160A-58 -- effective from and after December 31, 2007; and

To authorize the City Manager to enter into a half base contract with the Parkwood VFD was approved at 11:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13519

[SUPPLEMENTAL ITEM]

SUBJECT: FANNIE MAE ROLLING HILLS/SOUTHSIDE PLANNING GRANT

December 17, 2007

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to accept a \$65,000.00 grant from Fannie Mae for the planning of the Rolling Hills/Southside Redevelopment Project;

To authorize the City Manager to execute the Fannie Mae Grant Agreement dated December 5, 2007; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of increasing the total appropriation for Rolling Hills by 65,000.00 was approved at 11:09 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13529

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: AMENDMENT TO 2007-2009 CITY OF DURHAM EMPLOYMENT AND TRAINING GRANT PROJECT ORDINANCE SUPERSEDING GRANT PROJECT ORDINANCE # 13498

MOTION by Council Member Clement seconded by Council Member Catotti to authorize the City Manager to accept the North Carolina Department of Commerce Incumbent Worker Training Grant by executing the grant documents; and

To adopt the 2007-2009 City of Durham, North Carolina and State of North Carolina Department of Commerce Grant Project Ordinance, superseding Grant Project Ordinance #13498, in the amount of \$1,433,949.00 was approved at 11:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13520

SUBJECT: FIFTH AMENDMENT TO AGREEMENT FOR ARCHITECTURAL SERVICES AND CMAR CONTRACT AMENDMENT FOR CONSTRUCTION SERVICES FOR CITY HALL COMPLEX RENOVATIONS - ROUGHTON NICKELSON DELUCA ARCHITECTS PA - BALFOUR BEATTY CONSTRUCTION, INC.

MOTION by Council Member Clement seconded by Council Member Catotti to adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance #13428 for the purpose of increasing the total appropriation for the design and construction of City Hall and Annex Renovations Project by \$1,010,457.00;

December 17, 2007

To authorize the City Manager to execute a contract amendment to the Agreement for Professional Design Services for Durham City Hall and Annex Renovations with Roughton Nickelson DeLuca Architects PA in an amount not to exceed \$599,707.00 so that the total contract amount will not exceed \$1,428,794.00; and

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To authorize the City Manager to increase the design services project contingency to \$69,000.00;

To authorize the City Manager to negotiate and execute change orders on the Agreement for Professional Design Services for Durham City Hall and Annex Renovations, provided the total fee does not exceed \$1,497,794.00 which is the total contract amount plus contingency;

To authorize the City Manager to negotiate and execute an "Amendment No. 2" with Balfour Beatty Construction, Inc. for construction of the City Hall Renovations (excluding the Annex) if the final Guaranteed Maximum Price does not exceed \$6,103,643.00; and

To authorize the City Manager to establish a City Hall construction project contingency in the amount of \$461,100.00; and

To authorize the City Manager to negotiate and execute change orders on the "Amendment No. 2" provided the total contract cost does not exceed \$6,564,743.00, which is the full amount budgeted for construction phase services plus the City Hall (excluding the Annex) project contingency;

To authorize the City Manager to negotiate and execute a change order to the "Amendment No. 2" with Balfour Beatty Construction for construction of the City Hall and Annex renovations to include the construction of improvements to the Annex, should additional funds for this project be appropriated and so long as the contracted amount does not exceed \$7,586,043.00;

To authorize the City Manager to establish the project construction contingency of \$554,800.00; and

To authorize the City Manager to execute change orders on the contract provided the total contract cost does not exceed \$8,140,843.00 which would be the full amount budgeted for construction phase services plus the project contingency was approved at 11:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13521

SUBJECT: WORKFORCE DEVELOPMENT BOARD - APPOINTMENTS

December 17, 2007

MOTION by Council Member Clement seconded by Council Member Catotti to reappoint William A. Downey, Sr. and to appoint Marsha Basloe to the Workforce Development Board representing Private Sector with terms expiring on June 30, 2009 was approved at 11:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PUBLIC-PRIVATE PARTNERSHIP DEVELOPMENT AGREEMENT
AND PARKING MANAGEMENT AGREEMENT WITH CRAIG DAVIS
PROPERTIES FOR THE DURHAM CENTRE TOWER AND PARKING
DECK**

Council Member Ali asked for clarification on the following issues that were answered by staff: revenue, deck project and the lender's provision.

MOTION by Council Member Woodard seconded by Council Member Ali to approve a resolution, pursuant to N.C.G.S. 143-64.32, exempting the Durham Centre Deck Project from N.C.G.S. 143-64.31;

To authorize the City Manager to execute a Development Agreement between the City and CDP Durham Centre Investors LLC;

To find that the provisions of the Public-Private Partnership Development Agreement with CDP Durham Centre Investors LLC are sufficient to assure that the proposed renovations to the Durham Centre deck are obtained at a reasonable price;

To authorize the City Manager to execute the Parking Management Agreement between the City and CDP Durham Centre Investors LLC; and

To authorize the City Manager to make changes to both the Development Agreement and the Parking Management Agreement prior to execution provided the changes do not increase the compensation or obligations owed by the City and do not decrease the services and benefits to be provided to the City was approved at 11:16 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9521

Mayor Bell announced that a Joint Meeting between the City Council and the Board of County Commissioners has been scheduled for December 20, 2007 at 10:00 am to receive a report on the Gang Assessment Study.

December 17, 2007

There being no further business to come before the City Council, the meeting was adjourned at 11:17 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk